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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,631	02/22/2002	Paul Marie Pierre Spruyt	902.553-1	6182
4955	7590	05/17/2004	EXAMINER	
WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468			PEZZLO, JOHN	
			ART UNIT	PAPER NUMBER
			2662	
DATE MAILED: 05/17/2004				

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/082,631	SPRUYT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John Pezzlo	2662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 April 2004.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 4-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 4-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

The amended specification filed 22 April 2004 was entered as paper number 8.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

II. Claims 4 -12 are rejected under 35 U.S.C. 102(e) as being anticipated by Timm et al. (US 6,055,268) hereinafter Timm.

1. Regarding claims 4, 6, and 10 – Timm discloses a method and transmitter and receiver that utilizes VDSL modems, refer to Figure 2f and column 13 lines 60 to 67 and column 14 lines 1 to 10.

Timm discloses that data elements modulate at least one carrier, refer to Figure 4a and column 2 lines 56 to 67 and column 3 lines 1 to 33 and column 19 lines 23 to 55.

Timm discloses that a pilot carrier used for synchronization is multiplexed with at least one carrier, refer to column 5 lines 26 to 47 and column 10 lines 20 to 25 and column 29 lines 25 to 55.

Timm discloses that the pilot and the data elements are multiplexed to enlarge the bandwidth, refer to column 7 lines 50 to 60.

2. Regarding claims 5 and 7 – Timm discloses that the data elements are scrambled, refer to column 27 lines 55 to 67 and column 28 lines 1 to 10.
3. Regarding claims 8 and 11 – Timm discloses that the transmitter and the receiver utilize ADSL modem, refer to Figure 2a and column 1 lines 44 to 67 and column 2 and column 3 lines 1 to 45 and column 5 lines 58 to 65.
4. Regarding claims 9 and 12 – Timm discloses that the transmitter and the receiver utilize VDSL modem, refer to Figure 2f and column 13 lines 60 to 67 and column 14 lines 1 to 10.

#### *Response to Arguments*

Applicant's arguments filed 22 April 2004 have been fully considered but they are not persuasive.

1. Applicants argue on pages 2 and 3 of the response that the reference, Timm, does not disclose that the pilot carrier is modulated with part of the user data elements. The examiner

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respectfully disagrees. As stated in column 5 lines 40 to 47 and column 7 lines 50 to 60 and column 29 lines 24 to 55 the training sequence, the pilot tone, and the data elements are multiplexed and superimposed to make efficient use of the bandwidth. The examiner believes that the reference discloses the claimed elements and the rejection is proper.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Pezzlo whose telephone number is (703) 306-5420. The examiner can normally be reached on from 8:30 AM to 4:30 PM Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on (703) 305-4744. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C.

or faxed to:

(703) 872-9306. For informal or draft communications, please label  
"PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Receptionist (Sixth floor)  
Crystal Park 2  
2121 Crystal Drive  
Arlington, VA.

John Pezzlo

14 May 2004



JOHN PEZZLO  
PRIMARY EXAMINER